

## NCDOT/ACEC/AGC Design-Build Committee

Thursday, October 27, 2005 – Meeting Minutes

The meeting was held in the Chief Engineer's Conference Room at 4809 Beryl Road, in Raleigh, North Carolina at 9:30 a.m. Attending were:

<u>NAME</u>	<u>REPRESENTING</u>
Art McMillan	NCDOT
Rodger Rochelle	NCDOT
Ellis Powell	NCDOT
Victor Barbour	NCDOT
Jeff Gagne	Ralph Whitehead Associates
Tom Shearin	Earth Tech
Bill Copeland	Rea
Drew Johnson	Barnhill
Dan Peter	Granite
Tom Nettleton	The LPA Group
Gregory Heinz	Parsons Brinckerhoff
Jonathan Bivens	S. T. Wooten Corporation
Jeff Douglas	LPA Group
Tim Keener	URS
Mike Krannitz	Stewart Engineering
Tommy Peacock	RK&K
Richard Kirkman	Dane Construction

The following items were discussed at the meeting and are listed in order of the agenda:

1. **Introductions** – New members were noted.
2. **Schedule of Meetings** – A current meeting schedule and a contact list were passed out to attendees.
3. **Update on Current Design-Build Projects Under Construction** - There are 13 projects in various stages of construction. The Windsor Bypass project is under permit in less than nine months. Two projects in Charlotte are wrapping up. U-3101C in Cary is behind schedule due to subgrade issues. Knightdale Bypass is open to traffic and should be complete by April 2006. B-3851 in Greensboro has right of way issues, but is on schedule. The emergency bridge projects are going well.
4. **Future Design Build Projects** – The following are anticipated future projects: Washington Bypass; R-4463B; Bosch Boulevard in Craven County; I-2808A in Surry County, R-2616 in Union County; R-2813B Long Shoals Road; U4909 for Dell in 2007; I-2810 Interstate rehab; Bonner Bridge; and B-3835 and B-3837 once funding issue are resolved.
5. **AGC Issues/Concerns** – The following issues were raised:
  - a. Dan Peter brought out the point that the technical score has not mattered in contract award. Rodger Rochelle replied that NCDOT is looking at the spread in the points, but that most low bid contractors also had the highest Technical score, possibly supporting the theory that those

teams that have the most comprehensive Technical Proposals may be allowing those bids to be lower. Tim Keener noted that the quality score had gone from 15% to the 25%-30% range.

- b. All parties discussed their position in support of only shortlisting three teams. NCDOT will almost always shortlist three unless they cannot decide between the third and fourth ranked teams.
  - c. Richard Kirkman requested NCDOT to look at taking the time it requires for right of way acquisition out of the contractor's responsibility because it causes delay. Rodger Rochelle agreed that NCDOT can look at this issue, but also added that the industry is experiencing a learning curve as to right of way efforts and that to take this task away from the teams may put the DOT back on the contractors critical path. However, NCDOT expects the teams to adhere to the schedule proposed by the teams. Mr. Kirkman also requested to have smaller projects included in the design build let list. Rodger Rochelle agreed that the program intends to provide a healthy mix of DB projects.
  - d. Dan Peter asked that NCDOT communicate with the teams when a shortlist is being delayed and provide reasons for the delay. On the Washington Bypass, the teams were working during this time and could have stopped work if the project looked like it was not going to move ahead. The other contractors at the meeting concurred. Rodger Rochelle offered to provide earlier and more informational reasons for such delays.
  - e. Drew Johnson noted that NCDOT Divisions are adding on to projects as part of the right-of-way acquisition (i.e. adding driveways) and that this is causing delays in the ROW acquisition. The design-build teams ROW agents are making deals with the property owners and then NCDOT Division folks are cutting deals behind them.
6. **Design-Build Let List Information** – NCDOT is working toward a goal of updating the design-build let list every 30 days with additional information added. The design-build let list will be like the traditional 12 month let list. NCDOT has also started providing more detailed scope and stipend information as it becomes available. ACEC acknowledged this and thanked NCDOT for the information. Both ACEC and AGC asked to have detailed scopes as early as possible to aid in go/no-go and teaming decisions. The teams need information concerning pavement types, number and sizes of bridges, and rough earthwork volumes.
7. **Update on Design Build Studies** – ACEC was asked by NCDOT to undertake several studies at the October 15, 2004 meeting. The results of these studies were presented at the meeting and hard copies of the studies were provided to attendees.
- a. **Stipend Study** – Tommy Peacock presented the findings of the stipend study. He was successful in getting all 50 states to respond to the study. After the findings of the study were presented, Dan Peter commented that paying stipends results in better plans during the proposal stage, which cuts down on the risks and results in lower bids to NCDOT because of the lower risk. NCDOT should sell the stipend as an investment into the project rather than an expense.
  - b. **Design-Build Project Type/ Size Study** – This study indicated that a wide range of project types and sizes should be considered for design-build. There is contractor, design firm and NCDOT support for having projects enter the design-build delivery system at the planning

document 25% plans stage than at the right of way or final plans stages of development. Drew Johnson noted that speed and cost should be factors in selecting projects to go design-build and that projects like Bingham Drive should not be considered for this procurement method. NCDOT concurred and added that projects were chosen in the past because there was a design-build program, but that NCDOT is smarter now in selecting projects for this program.

- c. **Information provided in the RFP** – Checklists of available information have been developed and were implemented on the Washington Bypass. These lists have become very helpful and informative. As a follow-up, NCDOT needs to work on the timeliness of the information (i.e. geotechnical information on the Washington Bypass). NCDOT noted that the checklist serves many purposes including letting you know what is available as it becomes available. NCDOT is trying to get this information on the website as early as possible.
  - d. **Conflict of Interest Study** – ACEC presented this study which indicated that the member firms were still all over the board concerning the issue of when a firm should be excluded from participation on a design-build project. A draft conflict of interest survey/questionnaire has been developed by ACEC and all agreed that this survey would be completed at the next meeting.
  - e. **Construction Engineering & Inspection Study** – As far as CE&I is concerned, the ACEC member firms support utilizing these services through a wide range of procurement methods including design build. Dan Peter noted that having the CE&I as part of the team helps facilitate issues because the CE&I staff are part of the team and have an interest in meeting schedules and resolving issues. Drew Johnson noted that this approach worked well on the Knightdale Connector and that there have been no problems. Bill Copeland added that they have had no issues because the CE&I firms are ethical. The CE&I firms are instrumental in putting the Technical Proposal and design plans together. Let them be part of the Technical Proposal process, and then NCDOT can take them back and contract directly with them and pay them. Jonathan Bivens also commented that having the CE&I as part of the team is an advantage to NCDOT because this approach adds value and understanding instead of having everything done exactly by the book. Drew Johnson commented that when CE&I is performed by NCDOT staff that do not understand design-build, it is a hindrance to projects.
  - f. NCDOT responded that there is a wide variety of opinions about this issue within NCDOT. NCDOT has left the decision up to the Divisions as to whether CE&I will be performed by NCDOT staff or made part of the design-build team. NCDOT does not support the Divisions directly hiring CE&I firms to perform these services, they can only use NCDOT CE&I staff. Several of the contractors voiced opinions that in some areas of the state, it will be tough to deliver a design-build project with NCDOT Divisions performing CE&I, while it will be easy in others. In some Divisions, there is not a sense of cooperation. Victor Barbour reiterated that NCDOT will not hire a CE&I firm, but is required to use its own forces.
  - g. **Utilities Study** – ACEC supports NCDOT's current position of having the utilities coordinated by the design-build team, but reimbursed by NCDOT.
8. **NCDOT's Current Position on Canceling Projects** – ACEC asked NCDOT on their position concerning projects that are cancelled during the proposal stage or after proposals are submitted, but prior to project award. NCDOT stated that they have not developed a formal position because they

do not intend for it to happen again. On B-3637 and B-3835, NCDOT met with the teams and ask if they should delay the projects or pull back and readvertise. The new cash flow modeling will aid NCDOT in avoiding this situation in the future. NCDOT is making checklists and making sure that projects can move and be funded before shortlisting teams. On the Washington Bypass and all DB projects, if the project is not awarded, then the stipend will be made available to the shortlisted teams that provide a responsive proposal. On the Yadkin projects, two of three teams requested the stipend. Questions were raised concerning what will happen if the projects are readvertised. Since two of the three teams have been paid a stipend will they receive a stipend again if they pursue the projects? Since all three teams have now had early access to information and performed 25% design plans, will they be excluded from participating? Will the teams that took payment for their 25% design plans be excluded?

Jonathan Bivens asked that NCDOT cut a project off when they know it is dead due to the amount of money being spent. Jeff Douglass added that NCDOT needed to provide a definition of responsive. ACEC expressed the need for NCDOT to formalize a position on this issue so that the design-build teams pursuing the projects know, up front, what will happen when a project is cancelled. This information is needed in making a go/no go decision. It will also help NCDOT resolve the issue if a project gets stopped regardless of all of the upfront planning and checklists.

9. **New Submittal Guidelines** – Draft guidelines for submittals are being developed so that they can be taken out of the individual RFPs. These are available on the website. There are also preparation guidelines, number of copies, and etc on the website.
10. **Design-Build Manual** – NCDOT has developed a draft manual that is a process manual mostly for internal use.
11. **Open Discussion** – The floor was opened to general comments by the meeting attendees. The following items were discussed:
  - a. All present at the meeting supported a golf outing following the April 27 meeting. Berry Jenkins was volunteered to head up and organize this event.
  - b. On future projects, can information be provided early? Late data is causing problems and may not be able to be incorporated into the proposal. NCDOT is working on this as well as developing a schedule (i.e. Bertie and Beaufort – permit impacts, moratoriums; these impact plans, price and schedule).
  - c. Jeff Gagne raised a question concerning reviewer's requirements with regards to geotechnical investigations and if they do not meet the reviewer's requirements why can't the team take this on as part of their own risk (i.e. borings at bents, etc. – prove to NCDOT why the boring is not needed)? NCDOT is trying to get together with the Hydraulics and Geotechnical Units to come up with estimates of span lengths to set preliminary boring locations.
  - d. Tommy Peacock asked if the design-build let list was being updated regularly. NCDOT responded that it is updated once monthly if there is a change.
  - e. Tom Shearin asked that anticipated dates be added to the website if advertised dates are not known.

- f.** Jeff Douglass asked if NCDOT would ever consider letting the design-build team develop the pavement design. NCDOT responded “not right now”, but looking at providing alternates. Jeff noted that this limits innovation and approach. Ellis Powell stated that getting the industry to provide long-term (20 year) warranties would go along way toward allowing pavement design go to the teams.
- g.** The warranty provision is still considered extra credit.
- h.** Dan Peter asked if NCDOT would consider taking the technical proposal on one date, followed by the price proposal on a following date, similar to Florida. NCDOT responded that they thought that FHWA would not allow this approach. Drew Johnson noted that it would be nice to have the extra time. Bill Copeland brought up an excellent point that the way it is done now prevents sharing of ideas between submittal of the technical proposal and the bid. Jonathan Bivens added that everything is above board now, but allowing time between could lead to problems if information is leaked.

Following the open discussion, the meeting was adjourned.